

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

IA/711/IB/2020 in CP/1340/IB/2018 filed under section 12 (2) of the IBC, 2016 r/w Regulation 40 of IBBI Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

And

IA/712/IB/2020 in CP/1340/IB/2018 filed under section 12A of the IBC, 2016 r/w Regulation 30A of IBBI Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

And

MA/898/2019 in CP/1340/IB/2018 filed under section 66 of the IBC, 2016 r/w Section 60(5) (A) & (C) of the IBC, 2016.

In the matter of M/s. Sethuram Spinners Private Limited

IA/711/IB/2020:-

M. Ramasamy, RP

of M/s. Sethuram Spinners Private Limited
320, Sri Muttu Plaza, 2nd Floor,
Above Dhanalakshmi Bank,
Avinashi Road, Tirupur-2

---Petitioner/ Resolution Professional

IA/712/IB/2020:-

M. Ramasamy, RP

of M/s. Sethuram Spinners Private Limited
320, Sri Muttu Plaza, 2nd Floor,
Above Dhanalakshmi Bank,
Avinashi Road, Tirupur-641602

---Petitioner/ Resolution Professional



MA/898/2019:-

M. Ramasamy, RP
of M/s. Sethuram Spinners Private Limited
320, Sri Muttu Plaza, 2nd Floor,
Above Dhanalakshmi Bank,
Avinashi Road, Tirupur-641602

---Petitioner/ Resolution Professional

Vs

Percholi Pappuraja Kannan
26-D, Kuppusamy Raja Street,
Rajapalayam-626117.

---1st Respondent

Ms. Krishnamaraja Lakshipriaya
26-D, Kuppusamy Raja Street,
Rajapalayam-626117.

---2nd Respondent

Sri Vari Traders
5/116 A, Alagapurai Street,
Thottiapatti Road
Rajapalayam-626117

---3rd Respondent

Coram:

R. SUCHARITHA, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

IA/711/IB/2020 & IA/712/IB/2020:-

Counsel for Applicant : Ms. D. Sangamithra, Advocate
M/s. Genicon & Associates

MA/898/2019:-

Counsel for Applicant : Ms. D. Sangamithra, Advocate
M/s. Genicon & Associates

Counsel for Respondent-1 & 2 : Shri. A.M Kalalnath, Advocate
For M/s. S. B Legal

Counsel for Respondent- 3 : Shri. P. T. Geotam, Advocate
For M/s. Niranjana & Associates

COMMON ORDER

Per: **S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

Order Pronounced on: 06.10.2020

In this case, the main Company Petition No. 1340/IB/CB/2018 was filed under section 9 of the Insolvency and Bankruptcy Code, 2016 ("the Code") by **M/s. Sri Ramajayam Spintex Private Limited (the Operational Creditor)** for initiation of Corporate Insolvency and Resolution Process ("CIRP") against **M/s. Sethuram Spinners Private Limited (the Corporate Debtor)** and this application was admitted and initiated CIRP against the Corporate Debtor by the Adjudicating Authority on 26.02.2019.

2. Learned Counsel for the Petitioner submits that Application **IA/711/IB/2020** has been filed under Section 12(2) of the IBC, 2016 read with Regulation 40 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 seeking extension of CIRP by a further period of 90 days till 24.01.2019. It is further submitted that a note has been filed on behalf of the RP stating that the CIRP expires on 25.08.2019 but the IRP inadvertently construed that 180 days comes to an end on 26.10.2019. This matter was not put up as it was

felt that there was a question of maintainability of the application. However, in view of the subsequent developments like filing of application under section 12(A) of IBC, 2016, read with Regulation 40 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, this Adjudicating Authority is of the opinion that the delay in submitting the application may be condoned and the period of extension of 90 days from 27.10.2019, as sought for by the RP, on the recommendation of CoC could be accepted.

3. Learned Counsel for the Petitioner further submits that application IA/712/IB/2020 was moved by the RP under Section 12A of the IBC, 2016 read with Regulation 30(A) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 seeking withdrawal of main Company Petition CP/1340/IB/2018 and that in the 10th CoC meeting held on 07.01.2020, the Resolution Professional placed Form FA and vide Item-5 of the minutes of the meeting, it was resolved to withdraw all the CIR proceedings against the Corporate Debtor since all the financial and operational liabilities were settled and CIRP expenses was also settled. The Resolution Professional was

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requested to file necessary documents before this Tribunal for withdrawal of the CIRP. Pursuant to the above resolution, the Petitioner/RP has filed the present application IA/712/IB/2020. According to the Petitioner, all the creditors have been paid their outstanding claims in full. Hence, on the basis of Application IA/712/IB/2020, this Adjudicating Authority permits the Petitioner/Resolution Professional to withdraw the main company petition CP/1340/(IB)/CB/2018.

4. It is seen that the Petitioner in CP/1340/IB/2018 M/s. Sri Rama Jayam Spintex Private Limited vide e-mail dated 8th January 2020 has confirmed that all the outstanding dues from M/s. Sethuram Spinners Private Limited has been received and there is no due outstanding from the company (Corporate Debtor).

5. Learned Counsel for Petitioner submits that application MA/898/2019 filed under Section 66 read with Section 60(5)(a) and (c) of IBC, 2016 seeking direction to the respondents jointly and severally to surcharge the amounts purported to be recoverable from them for certain transactions which have been considered as

fraudulent. This Bench is of the opinion that since all the Creditors have been fully paid and CIRP has come to an end, no useful purpose will be served in deliberating further with this Application MA/898/2019.

6. In view of the above,

- i) Application IA/711/IB/2020 filed under Section 12(2) of IBC, read with Regulation 40 of IBBI Insolvency Resolution Process for Corporate Persons) Regulations, 2016 seeking extension of CIR Process is hereby **granted**;
- ii) Application IA/712/IB/2020 filed under Section 12A of IBC, 2016 read with Regulation 30A of IBBI Insolvency Resolution Process for Corporate Persons) Regulations, 2016 seeking withdrawal of main Company Petition CP/1340/(IB)/CB/2018 is hereby **allowed**; and
- iii) Since the interest of the financial and operational creditors have been fully satisfied by the promoters/directors, this Adjudicating Authority is of the opinion that application MA/898/2019 filed under Section 66 read with Section

60(5)(a) & (c) of IBC, 2016 is liable to be **dismissed as infructuous.**

7. In view of this, the erstwhile management of the company is restored and the RP is directed to hand over necessary papers to the erstwhile promoters/directors so that the day to day affairs of the company could be conducted in a satisfactory manner.

8. Consequently, **all the connected IAs & MAs** are closed as discussed in the preceding paragraphs.

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[S. VIJAYARAGHAVAN]
Member (Technical)

MEMBER (TECHNICAL)

TJS/KNP

-sd-

[R. SUCHARITHA]
Member (Judicial)